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Loree, Leonor F.

Ten hours pay for eight hours work in railway...

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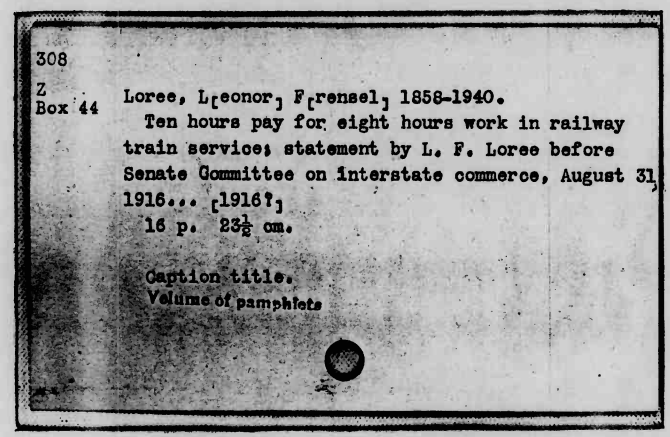

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Ten hours pay for eight hours work in railway train service; statement by L. F. Loree before Senate Committee on interstate commerce, August 31, 1916... [1916]
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TEN HOURS PAY FOR EIGHT HOURS WORK IN RAILWAY TRAIN SERVICE.

Statement by L. F. LOREE
Before Senate Committee on Interstate Commerce,
August 31, 1916.

It is of course important to ascertain at the outset and with precision the exact nature of the demand with which the railways and the public have to deal. The public statements made by the officers of the four railroad brotherhoods, and those emanating from the White House, including the address to Congress made by President Wilson on August 29, refer to the primary demand of the trainmen in terms which, if accepted at their face value, would make it appear that the effort is to restrict the actual hours of labor of these railway employes to a maximum of eight hours per day in order that they may have sixteen out of each twenty-four hours for rest, recuperation from toil and for such recreation or developmental activities as they might select. The President, in his address to Congress of August 29, expressed himself in terms which have no meaning unless such is the purpose of the trainmen and the object to be effected by his recommendation. He said :

> " It seemed to me, in considering the subject matter of the controversy, that the whole spirit of the time and the preponderant evidence of recent economic experi-

ence, spoke for the eight-hour day period. It has been adjudged by the thought and experience of recent years a thing upon which society is justified in insisting as in the interest of health, efficiency, contentment and a general increase of economic vigor. The whole presumption of modern experience would, it seemed to me, be in its favor, whether there was arbitration or not, and the debatable points to settle were those which arose out of the acceptance of the eight-hour day rather than those which affected its establishment. I, therefore, proposed that the eight-hour day be adopted. * * *"

It is perfectly obvious that the foregoing could have no application to a situation in which the employes are merely asking to increase the hourly rates of compensation by applying the per diem rates fixed for a longer number of hours to a shorter number of hours with no expectation or desire to diminish their actual time on duty, but for the sole purpose of obtaining higher aggregate earnings.

It is desirable, therefore, to consider the trainmen's proposals in each of the following aspects:

(1) As a genuine effort to place a maximum of eight hours upon the time to be permitted for the movement of trains between division terminals, supplemented by the purpose to obtain ten hours' pay for eight hours' work, and

(2) As an effort to obtain largely increased pay under the false pretense of placing a limitation which has some support in popular opinion upon the hours daily devoted to labor, but without any actual purpose to diminish those hours.

It is incontestable that the purposes of the trainmen must fall within one or the other of the foregoing descriptions, and if they are found to be unsound upon both bases it must follow

that the proposals ought to be rejected. These different aspects of the problem will be separately considered:

FIRST:

THE RAILWAYS OUGHT NOT TO BE REQUIRED TO PLACE A LIMITATION OF EIGHT HOURS UPON THE MOVEMENT OF TRAINS BETWEEN DIVISION TERMINALS.

No one can examine the various statements which have been made by the officers of the railroad brotherhoods and remain under the impression that there is a genuine purpose to establish an eight-hour day. President Wilson was not misled as to this aspect of the controversy although there is a great deal in his address to Congress and in other statements apparently officially authorized which, separately considered, might be capable of a different interpretation.

In his first formal statement to the public he said:

> "The eight-hour day now undoubtedly has the sanction and the judgment of society in its favor and should be adopted as a basis for wages even where the actual work to be done cannot be completed within eight hours."

The foregoing plainly recognizes the self-evident truth that conditions quite separate from the purpose of any management or any employes will always fix the time required to move trains between division terminals. Such movement is a task of vast physical proportions and its performance must forever be subject to conditions that are not of human contrivance and are not within human control. Assuming, however, that a reduction in time could be accomplished, it would have to be attained in one of two ways, *i. e.*, either by (*a*) diminishing the distance between terminals or (*b*) increasing the average speed of trains.

The present standard of payment in freight service is a

trip of 100 miles or less accomplished within ten hours or less. Every freight trainman is paid for at least 100 miles and for at least ten hours' work each time that he goes upon duty, even though his train traverses a shorter distance and even though the movement is accomplished within a shorter period. He is accorded proportionate extra pay for every mile over 100 miles and for every minute over ten hours.

If enginemen and trainmen were to work eight hours per day and no more, the number of these classes of employes would have to be increased by not less than 40,000. If the maximum limitation of eight hours per day were to be extended to all railway employes the present number would have to be increased by at least 250,000.

Of course, a standard required by social justice in the case of the railways would have to be extended to other occupations. An estimate made by the New York Times indicates that to extend the eight hours per day limitation to all the industries of the country, including farms, mines, factories and railroads, would necessitate the immediate employment of 7,200,000 more individuals than are now employed. However desirable such a change might be considered under ordinary circumstances, it must be recognized that it would be folly to consider such a general reorganization of industry at a time when the immigration of workmen has substantially ceased and the ranks even of those formerly available have been diminished by emigration. To-day there is no considerable industry in the United States which is not suffering for the lack of workmen. The European war has stopped the flow of immigration which ordinarily maintains and increases the American supply of labor and at the same time has augmented the demand in certain lines of industry while, to some extent, diminishing the supply by calling into the military service of other governments men who, under ordinary circumstances, would have continued to labor in this country. The troubles in Mexico, calling into the military service of our Government many

American workmen, have also operated to diminish the available supply.

Under these conditions it is not conceivable that men necessary to place the industries of the country, or even the railway industry alone, upon an eight-hour basis could be obtained. Therefore, all that would be effected by a statutory requirement fixing a maximum of eight hours for the railroads, would be a reduction in the amount of transportation service which could be supplied. In view of the discontent which has been apparent on the few recent occasions in which the railroads have been temporarily unable to move all the traffic that offered, it is not believed that Congress would purposely produce conditions which could only result in a very serious congestion.

Should the railroads be forced to attempt the relocation of terminals in order to make it possible to run their trains over the divisions in not to exceed eight hours, there would be a vast destruction of valuable property now in existence and a great deal of capital would have to be invested in the construction of new yards and terminals to take the place of those that would no longer be useful. This, however, would not tell the whole story. The homes of employes as well as those of others are, of course, located at or near division terminals. A large aggregate capital is represented by these homes and much of this aggregate would be impaired should relocations be necessary. In many instances such changes would practically destroy the cities or towns from which the terminals were taken.

On the other hand, if it were necessary to increase the average speed of trains in order to accomplish the present movement within eight hours without reduction in mileage, the only possible way of accomplishing that result would be to reduce train tonnage. The whole progress of the last quarter of a century in American railway transportation has been accomplished by increasing the

efficiency of the train as measured by the number of tons of freight carried one mile per train mile. But for this progress no American railway would now be in a condition of solvency, for in no other way could the railways have kept pace with the steady reduction in earnings per unit of service that have been brought about by legislative agencies and by the continuous fall in the purchasing power of money. To accomplish this, huge sums have been expended in the replacement of freight cars by cars of greater capacity and in substituting new and higher powered locomotives for those formerly used. To limit the standard day to eight hours by statute would be at once to reduce by a very large percentage the efficiency thus attained. Such changes would also increase the number of trains necessary to move the same volume of traffic, thus increasing the necessary investment in yard tracks, sidings, etc.

Whether the change from the present standard to a bona-fide eight-hour standard were accomplished either by reducing the distance between terminals or by increasing the speed of trains, it is plain that a very large investment in new locomotives and in additional cars would be necessary. Without referring to the difficulty of obtaining the capital required for this new equipment, it should be noted that even if capital were at once available, the new equipment could not be procured without considerable delay. The manufacturing establishments in which locomotives and cars are produced are at this time occupied to their full capacity. Common sense would, therefore, suggest that such a requirement as that under consideration should at least be postponed until there is reasonable opportunity for obtaining the additional equipment which would be necessary. Otherwise, the most immediate result would be a serious curtailment of the available supply of railway service.

SECOND.

THERE SHOULD BE NO COMPULSORY ADVANCE IN WAGES OF TRAINMEN UNLESS AS THE RESULT OF A THOROUGH INVESTIGATION OF THE MERITS BY AN IMPARTIAL BOARD OF ARBITRATORS.

It is, however, as an attempt to obtain increased pay for the same work that the present demands are actually to be considered. The evidence is abundant and conclusive that the railway trainmen neither anticipate nor desire any change which would reduce the time during which they are actually employed.

In short, they have adopted for their demand the misleading designation of the "Eight Hour Day," for the reason that the principle of the eight hour working day has been much discussed by Economists and Philanthropists, and because it has seemed to them that under cover of a popular designation they could obtain sympathy of the public for increases in wages which, of themselves, would not be approved. The trainmen neither wish to extend their hours in the numerous cases in which they receive a day's pay for much less than eight hours work, nor to reduce their hours of service in those instances in which they are paid for more than a full day, or would be paid for more than a full day if the time for a standard "trip" were limited to eight instead of ten hours. That is to say, they are taking their stand in favor of a counterfeit eight hour day, which, if accepted by the railroads, could never become more than a contractual fiction, and is being pressed only as a device to obtain ten hours' pay for eight hours' work. This is made perfectly clear by the following paragraph from the bill which, as reported in the public press, has been proposed for the purpose of bringing about the eight hour standard:

> "Pending the report of the Wage Commission and the decision of the Interstate Commerce Commission, as above provided, and for a period of_____days

> thereafter, the compensation of railway employees subject to this act for the standard eight-hour work day shall not be reduced below the present standard day's wage, and for all services in excess of eight hours such employees shall receive not less than a *pro rata* proportion of the compensation received for the standard eight-hour work day."

It is thus proposed that the trainmen shall receive for four-fifths of the time provided for in their present contracts the same compensation which they now receive for full time and with overtime pay after eight hours.

The question at issue is, therefore, wholly one of rates of pay. If the demands of the trainmen should be acceded to, they would receive $1.25 for each dollar which they now receive up to eight hours of labor.

It has been estimated that the concession of this demand (excluding demand of the men that time and one-half be paid for overtime after eight hours) would cost the railways approximately $50,000,000 per year; and, moreover, if it should be admitted, there is a probability that at least a proportionate increase would be demanded by other classes of employes. The present demands are made on behalf of approximately 400,000 out of about 2,000,000 employes.

No facts or arguments have been offered which show or tended to show that railway trainmen are not reasonably compensated for the duties which they perform. They are skilled employes, performing services which demand more than average ability, entail a serious degree of responsibility, and should only be entrusted to persons of high character. These facts undoubtedly ought to enter and they always have entered into the fixing of their compensation. In consequence they receive higher pay than is accorded to any similar employment. It is true that measured by the day or hour, they receive somewhat less than is received by some of the men in the building trades and in some other seasonal occupations.

But when allowance is made for the considerable unemployment of carpenters, masons and others who seem to receive higher wages, it will be found that the annual earnings of the typical railway trainmen far exceed those of persons equally skilled in other vocations.

As it has come to pass that railways in the United States cannot now receive for the services which they perform more, in the aggregate, than shall meet their expenses and taxes and afford a reasonable return on the fair value of their property, it must be remembered that in any such discussion as that now in progress the railway corporations are as to the sums paid in wages merely conduits through which moneys pass from the traveling and shipping public to the train employes. Furthermore, the shippers do not themselves, actually pay the freight rates, but collect the amounts so paid either directly or indirectly from the ultimate consumers. It, therefore, follows that whatever is added to wages must be added (*first*) to the sums paid to the railways in freight rates, and (*second*) to the prices of the commodities shipped, that is to say, to the cost of living to the ultimate consumers. This makes it apparent that the present proposition is, in fact, one to increase the cost of living of the great multitude of Americans who have incomes lower than those received by railway trainmen in order to increase these higher incomes. If there is any question as to the propriety of such a procedure, it is doubtless certain that a decision adverse to the general public ought not to be reached upon *ex parte* testimony or without a careful investigation in which all concerned should have a right to be heard. To this extent the railways which are resisting the trainmen's proposition are merely standing for the rights of the general public. On the other hand, if increases in wages should be granted and there should be no adjustment of freight rates, or an inadequate adjustment, the loss would fall upon investors, that is upon the frugal and the saving.

The adroitness of the officers of the railroad brotherhoods

in playing upon the public dread of disturbances in the railway situation which might possibly lead to strikes, has, during the last ten years obtained for the employes they directly represent, very considerable increases in wages. It is not intended here to question the propriety of these increases, all of which were imposed upon the railroads either by insistent demands of public officers assuming to represent the public, or by arbitrations conducted under statutory authority. It is necessary to note, however, that they have taken place and that they are supplemented by the present demand during a period in which the actual labor and the real responsibilities of the trainmen have been diminished by legislation requiring the installation of many kinds of safety devices and signals and in other ways. As a matter of fact only a portion of the time during which railway employes are technically on duty is devoted to actual physical work. A careful investigation was made of the work of these employes on the railway of The Delaware and Hudson Company with the results shown in the following table:

Item:	Through Passenger Trains:	Local Passenger Trains:	Branch Line Passenger Trains:	Through Freight Trains:	Way or Local Freight Trains:
	H M	H M	H M	H M	H M
Conductors:					
Time on duty per day...	7 40	7 50	12 09	10 33	10 50
Time actually engaged in work	4 51	4 53	5 07	4 26	7 06
Per cent	63.3	62.5	42.1	42.1	65.5
Baggagemen:					
Time on duty per day	7 19	7 46	12 09		
Time actually engaged in work	3 20	2 59	4 01		
Per cent	45.6	38.5	33.1		
Flagmen:					
Time on duty per day...	7 51	7 51	12 09	10 33	10 50
Time actually engaged in work	3 34	3 36	4 06	4 43	6 05
Per cent	45.5	45.8	33.7	44.7	56.2
Head Brakemen:					
Time on duty per day...			9 23	10 33	10 50
Time actually engaged in work			4 48	3 46	6 03
Per cent			51.1	35.7	55.8
Middle Brakemen:					
Time on duty per day...				10 16	11 20*
Time actually engaged in work				3 26	5 48*
Per cent				33.5	50.8*

* First middle brakemen on through freight trains.

The foregoing shows that the "days" of the various employes represented in through, main line service ranged between a minimum of 7 hours and 19 minutes to a maximum of 10 hours and 33 minutes and that the time actually engaged in work varied from a minimum of 2 hours and 59 minutes to a maximum of 4 hours and 43 minutes. The relatively small numbers employed on branch lines and local service averaged somewhat longer service. This obviously presents a very different situation from that of those vocations in which there is reason to support the principle of the *bona-fide* eight-hour day. This principle is based upon the idea that the occupa-

tions to which it applies require close application and intense and uninterrupted effort during the whole working period. This has been shown not to be the case as to railway trainmen and hence the principle *cessante ratione legis, cessat ipsa lex*, should be applied. The reason for the *bona-fide* eight-hour day does not exist in connection with the movement of railway trains and, therefore, the principle should not be applied.

It is certainly no time to burden the railroads with additional uncompensated expenses. The heavy increases in wages to which they have been compelled to submit and the largely augmented cost of the materials they are obliged to purchase led the railroads to attempt, in the year 1910, to obtain an adjustment of their rates so as partially to make up to them the losses they had sustained through the decline in the purchasing power of the standard money by which their rates are measured. It was not, however, until February 21, 1915, that they were able, with the permission of the Interstate Commerce Commission, to make increases in their rates which were very much less than those originally asked for, although between the original application and the permission to make the advances there had been additional increases in rates of wages and further increases in the cost of materials and supplies.

The President realizes that the cost of the proposed higher wages ought not to fall upon the railways themselves, but ought to be passed along to shippers and through them, of course, to ultimate consumers, but it is not at all certain that effective mechanism to accomplish this result exists or can be created. The President does not legislate, and although he may recommend legislation he cannot guarantee the enactment of any measure. The Presidential promise to the late Mr. Harriman, to repay to the Southern Pacific all sums which it might expend in performing the public service of saving the Imperial Valley from inundation by stopping the flow of the Colorado river into the Salton Sea, a task which the Federal

government found itself incapable of accomplishing, has never been carried out by Congress, and the inducement of higher freight rates with which President Roosevelt, aided by the then Chairman of the Interstate Commerce Commission, prevailed upon the railways, in 1908, to avoid a threatened strike by increasing the wages of train employes was, at the first opportunity, repudiated by the Interstate Commerce Commission, and President Taft took no public steps to obtain different action.

The fact that abnormal conditions in the export trade of the country have brought about a temporary condition of activity in railway traffic must not be permitted to occasion false security as to the fundamental conditions of this great industry. There is no good reason whatever for considering that the situation thus produced will outlast the conditions from which it has resulted. In 1915 the total length of line of railways in the hands of receivers rose to about 42,000 miles. The highest total previously reported to the Interstate Commerce Commission was on June 30, 1894, when the aggregate was 40,819 miles. The total length of railway lines in receivers hands on December 31, 1915, was 38,661 miles, these figures comparing with 18,608 miles on June 30, 1914, 16,286 on June 30, 1913, 9,786 on June 30, 1912, and 4,593 on June 30, 1911.

It must always be remembered that capital seeking investment is not subject to legislative regulation. Within constitutional limitations which are not very effective, Congress can regulate the railway industry in such a way as to decrease railway receipts and increase railway expenses. Within the scope of its legislative power, each state has similar power. But neither Congress nor state legislature has any authority to require any person to furnish a dollar of capital to any railway enterprise. Those who seek capital for railway development have recently met increased competition from two sources. It is only within a very short time that any of the

great manufacturing and mercantile enterprises of the country have been so organized as to permit a direct appeal to investors. For some years, however, they have been so organized as to make such an appeal and, offering relatively high interest and being able to show increased stability and substantial freedom from legislative and governmental interference, they have been able to secure a large share of the annual investment fund. On the other hand, the volume of governmental securities, which appeal to the most conservative investors, has been very largely augmented by heavy issues of municipal bonds, and these have been put out at higher rates of interest than were formerly paid upon securities resting upon taxation, so that the former difference in income in favor of investors in railway bonds has been almost eliminated. Moreover, the freedom of all classes of governmental securities from the Federal income tax and even from the requirement to make public disclosure of income received, has made them additionally attractive. One consequence of these conditions is that although the railroads need for normal development not less than one billion dollars per annum, and have needed that amount for many years, they have been able to obtain scarcely five hundred million. Another consequence is that in 1915 the total amount of new railway mileage constructed in the United States was less than during any other year subsequent to the Civil War, the total construction during the year being 933.24 miles. In the year 1849, when the railway system in this country was actually in its infancy, the new lines constructed amounted to 1,369 miles and from that time to and through the year 1914 there were only three years, 1861, 1862 and 1864, in which less than 1,000 miles were constructed. Of the 66 years from 1849 to 1914 inclusive, there were five in which the new construction was more than one thousand and less than 1,500 miles, eleven in which it was more than 1,500 and less than 2,000, eleven in which it was more than 2,000 and less than 3,000, nineteen in which

it was more than 3,000 and less than 5,000, fifteen in which it was more than 5,000 and less than 10,000 and two years (1882 and 1887), in which it exceeded 10,000 miles.

In 1906 the Interstate Commerce Commission was given extensive powers over the supervision of railway accounts and, beginning with July 1, 1907, the property accounts of all interstate railways have been been kept in accordance with the system of accounts officially prescribed and actually subject to Federal inspection. The reports of the Interstate Commerce Commission show that between 1907 and 1914, the actual cash expenditures for additions and betterments to the American railway system amounted to $3,627,283,380. This additional investment amounted to more than one-fourth of of the aggregate investment at the beginning of the period. Yet, in spite of this heavy addition to the amount of capital employed, the amount available for return to capital, including interest on capital secured by the issue of bonds, was actually $74,110,851 lower in 1914 than in 1907. In other words, having invested almost $4,000,000,000 to extend and improve their facilities the railways earned less by the use of those facilities in 1914 than in 1907. During the whole period there were only two years in which the added capital expended in improvements and extensions brought in any return whatever, and in those years the rate of return was but 1.28% and 3.42%, respectively.

It would be seriously unfortunate if what appears to be a present emergency should be dealt with in such a way as to increase the difficulties of the future and without providing any effectual means for settling any of the disagreements that arise. If the threat of suspending the industrial activities of the Nation by stopping railway transportation should now suffice to extort from Congress a statute sanctioning the counterfeit eight-hour day and so force a heavy increase in wages, the result will invite similar threats whenever the desire for easier conditions or higher pay suggests. Even the pending demands

would not be settled by the enactment of the counterfeit eight-hour day, and the example would prove contagious, other classes of workmen would attack other industries with similar plans of campaign.

The President's recommendations include a practicable measure for the accommodation of future differences which threaten to interrupt interstate commerce. This is the only feature of the suggested legislation which offers a possible remedy for future difficulties and it would be most unfortunate if it should not receive present consideration.

The willingness of the railways to arbitrate all the demands made upon them by the trainmen is matter of public record and proof of their confidence in the justice of their position. They have at all times been ready to arbitrate under the Federal statute (the Newland's Act), enacted in part upon the request of the trainmen, or before the Interstate Commerce Commission, or a special tribunal appointed by the President, or otherwise. The refusal of the trainmen to arbitrate was absolute and it was this refusal which brought about the situation which Congress is now attempting to relieve.

HSH 20946

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